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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,416	01/23/2002	Timothy S. Claremont	D/A1475 (1508/3530)	9474
7590	03/15/2006		EXAMINER	
Gunnar G. Leinberg, Esq. Nixon Peabody LLP Clinton Square P.O. Box 31051 Rochester, NY 14603-1051			ROSEN, NICHOLAS D	
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			3625	
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Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/053,416	CLAREMONT ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Nicholas D. Rosen	3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 12 January 2006.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1-36 is/are pending in the application.
  - 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-6,8-13,15-20,22-25,27-30 and 32-35 is/are rejected.
- 7) Claim(s) 7,14,21,26,31 and 36 is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 23 January 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____ .
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____ .

## **DETAILED ACTION**

Claims 1-36 have been examined.

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on January 12, 2006 has been entered.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

**Claims 1-6 (Haines '998 as primary reference)**

Claims 1, 2, and 3 are rejected under 35 U.S.C. 103(a) as being unpatentable over by Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268). As per claim 1, Haines '998 discloses a method comprising: displaying with a device a status of a plurality of consumables of a peripheral device and information about ordering at least one of the consumables when at least one condition occurs (paragraphs 54-56, 57, 59, 64, 65, 80, and 86); monitoring for an input indicating that an order for the at least one consumable has been placed (paragraph 85); and submitting with a device the order for the at least one consumable to a supplier if the monitored input indicates at order should be placed (paragraph 85). Haines '998 does not clearly disclose that the monitoring and submitting are performed with the peripheral device (although one might make the interpretation that the phrase "with the peripheral device" is sufficiently broad that Haines '998's involvement of the peripheral device in the system meets the claim limitations), but Haines '268 teaches the peripheral device submitting the order (Abstract; paragraph 8; claim 1), and teaches configuring the peripheral device and coordination of orders over a group of peripherals or over time (paragraphs 54 and 55). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the peripheral device to perform these steps, for the stated advantage of coordinating supply orders for multiple peripheral devices (Haines '268, paragraphs 6 and 7).

As per claim 2, Haines '998 discloses that the at least one condition is receipt by a device of a request for at least one of the status of consumables and information

about ordering the at least one of the consumables (paragraphs 55 and 58), but does not disclose that this device is the peripheral device. However, Haines '268 teaches configuring the peripheral device and coordination of orders over a group of peripherals or over time (paragraphs 54 and 55), as well as ordering by the peripheral device (Abstract; paragraph 8, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the device to be the peripheral device, for the stated advantages of assuring adequate supplies of replacement print media, marker material, etc. (Haines '268, paragraph 5) and coordinating supply orders for multiple peripheral devices (Haines '268, paragraphs 6 and 7).

As per claim 3, Haines '268 teaches that the at least one condition is an indication in the peripheral device that replacement of the at least one of the consumables is recommended based on at least one criterion (Abstract; paragraph 8; claims 1 and 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the condition to be such an indication, for the stated advantage of assuring adequate supplies of replacement print media, marker material, etc. (paragraph 5).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) and Haines et al. (U.S. Patent Application Publication 2003/0074268) as applied to claim 1 above, and further in view of official notice. Haines does not expressly disclose confirming the order before the submitting of the order, but official notice is taken that it is well known to confirm orders

before submitting them. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to confirm the order, for the obvious advantage of assuring that the user was ordering what he intended to order, and doing so in the fashion he wished.

Claims 5 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) and Haines et al. (U.S. Patent Application Publication 2003/0074268) as applied to claim 1 above, and further in view of Bezos (U.S. Patent 6,029,141). As per claim 5, given that Haines discloses a system for ordering consumables, processing the order and supplying the ordered consumables follows. Haines '998 does not disclose that the processing of the order comprises retrieving information about the device that placed the order, but Haines '268 teaches identifying peripheral devices to the vendor (paragraph 38), and Bezos discloses retrieving information about the computer that places an order (column 7, line 61, through column 8, line 31). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to retrieve such information, for the obvious advantages of shipping products to the right location, charging the right account, etc., and for the stated advantage (Bezos) of paying a commission to the right referring associate.

As per claim 6, Bezos further discloses determining a distribution of at least a portion of the payment based on the retrieved information (Abstract; column 7, line 61, through column 8, line 31). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to determine a

distribution of at least a portion of the payment based on the retrieved information for the stated advantage of arranging to pay commissions to associates who help bring in business.

**Claims 8-13 (Haines '998 as primary reference)**

Claims 8, 9, and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268). Claims 8, 9, and 10 are parallel to claims 1, 2, and 3, respectively, and rejected on essentially the same grounds. Haines '998 repeatedly refers to a program for causing the computer to perform its functions (e.g., paragraphs 8, and 10; claims 1-13, etc.), a program that would presumably have to be stored on a medium.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of in view of Haines et al. (U.S. Patent Application Publication 2003/0074268) and official notice. Claim 11 is parallel to claim 4, and rejected on essentially the same grounds.

12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268), and Bezos et al. (U.S. Patent 6,029,141). Claims 12 and 13 are parallel to claims 5 and 6, respectively, and rejected on essentially the same grounds.

**Claims 15-20 (Haines '998 as primary reference)**

Claims 15, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268). Claims 15, 16, and 17 are parallel to claims 1, 2, and 3, respectively, and rejected on essentially the same grounds. Haines '998 repeatedly refers to a program for causing the computer to perform its functions (e.g., paragraphs 8, and 10; claims 1-13, etc.), a program that would presumably have to be stored on a medium.

Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268) and official notice. Claim 18 is parallel to claim 4, and rejected on essentially the same grounds.

19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268), and Bezos et al. (U.S. Patent 6,029,141). Claims 19 and 20 are parallel to claims 5 and 6, respectively, and rejected on essentially the same grounds.

**Claims 22-25 (Haines '998 as primary reference)**

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268) and Bezos et al. (U.S. Patent 6,029,141). As per claim 22, Haines '998 discloses a method for ordering at least one

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consumable for a peripheral device, the method comprising: submitting an order with the device for the at least one consumable for the device (Abstract; paragraph 85).

Haines '998 does not clearly disclose that the order is submitted with the peripheral device (although one might make the interpretation that the phrase "with the peripheral device" is sufficiently broad that Haines '998's involvement of the peripheral device in the system meets the claim limitations), but Haines '268 teaches the peripheral device submitting the order (Abstract; paragraph 8; claim 1), and teaches configuring the peripheral device and coordination of orders over a group of peripherals or over time (paragraphs 54 and 55). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the peripheral device to submit the order, for the stated advantage of coordinating supply orders for multiple peripheral devices (Haines '268, paragraphs 6 and 7).

Haines '998 is not explicit about processing the order, and does not disclose that the processing comprises retrieving information about the device, nor determining a distribution of at least a portion of a payment for the order based on the retrieved information, but Bezos discloses this (Abstract; column 7, line 61, through column 8, line 31), and Haines '268 teaches identifying peripheral devices to the vendor (paragraph 38). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to determine a distribution of at least a portion of the payment based on the retrieved information for the stated advantage of arranging to pay commissions to associates who help bring in business.

As per claim 23, Haines '998 discloses indicating a status of the at least one consumable, wherein the submitting is based on the indicating (paragraphs 54, 55, and 85)

As per claim 24, given that Haines '998 discloses a system for replenishing consumables, supplying consumables based on orders follows.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Haines '998, Haines '268 and Bezos as applied to claim 22 above, and further in view of official notice. Haines does not disclose that the retrieved information identifies a retailer that sold the device, but official notice is taken that it is well known to maintain and retrieve records of which dealer sold a device. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce for the retrieved information to identify a retailer that sold the device, for such advantages as determining what advertising had been effective, who was responsible for repairing or replacing a device under warranty, etc.

**Claims 27-30 (Haines '998 as primary reference)**

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268) and Bezos et al. (U.S. Patent 6,029,141); claim 30 is rejected further in view of official notice. Claims 27-30 are parallel to claims 22-25, respectively, and rejected on essentially the same grounds.

**Claims 32-35 (Haines '998 as primary reference)**

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268) and Bezos et al. (U.S. Patent 6,029,141); claim 35 is rejected further in view of official notice. Claims 32-35 are parallel to claims 22-25, respectively, and rejected on essentially the same grounds.

**Claims 1-6 (Hayward as primary reference)**

Claims 1, 2, 3, 4, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268). As per claim 1, Hayward discloses a method comprising: displaying with a device a status of at least one consumable in the device, and information about ordering at least one of the consumables when at least one condition occurs (Figures 3 and 4; column 5, line 10, through column 6, line 4); monitoring with the device for an input indicating that an order for at least one of the consumables has been placed (column 7, line 67, through column 8, line 38); and submitting with the device the order for at least one consumable to a supplier if the monitored input indicates an order should be placed (column 7, line 67, through column 8, line 38). Hayward does not expressly disclose displaying the status of a plurality of consumables at one time, but does disclose displaying the status of various consumables, such as paper and magenta ink (column 5, line 10, through column 6, line 4). Even if, ad arguendo, this does not constitute displaying a status of a plurality of consumables, it is considered obvious to one of ordinary skill in the relevant art to

duplicate parts for multiple effects (*St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 (7th Cir. 1977); *In re Harza*, 124 USPQ 378, 380; 274 F.2d 669 (CCPA 1960)). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to display the status of a plurality of consumables, for the obvious advantage of conveniently notifying a user of reason to order a plurality of consumables that may be in short supply.

Hayward does not clearly disclose that the monitoring and submitting are performed with the peripheral device (although one might make the interpretation that the phrase "with the peripheral device" is sufficiently broad that Hayward's involvement of a peripheral device in the system meets the claim limitations), but Haines '268 teaches the peripheral device submitting the order (Abstract; paragraph 8; claim 1), and teaches configuring the peripheral device and coordination of orders over a group of peripherals or over time (paragraphs 54 and 55). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the peripheral device to perform these steps, for the stated advantage of coordinating supply orders for multiple peripheral devices (Haines '268, paragraphs 6 and 7).

As per claim 2, Hayward discloses that at least one condition is receipt by a device of a request for at least one of the status of consumables and the information about ordering at least one of the consumables (Figures 3 and 4; column 5, line 10, through column 6, line 4), but does not disclose that this device is the peripheral device. However, Haines '268 teaches configuring the peripheral device and coordination of

orders over a group of peripherals or over time (paragraphs 54 and 55), as well as ordering by the peripheral device (Abstract; paragraph 8, etc.). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the device to be the peripheral device, for the stated advantages of assuring adequate supplies of replacement print media, marker material, etc. (Haines '268, paragraph 5) and coordinating supply orders for multiple peripheral devices (Haines '268, paragraphs 6 and 7).

As per claim 3, Hayward discloses that the at least one condition is an indication in a device that replacement of the at least one of the consumables is recommended based on at least one criterion (Figures 3 and 4; column 5, line 10, through column 6, line 4). Haines '268 teaches that the at least one condition is an indication in the peripheral device that replacement of the at least one of the consumables is recommended based on at least one criterion (Abstract; paragraph 8; claims 1 and 4). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the condition to be such an indication in the peripheral device, for the stated advantage of assuring adequate supplies of replacement print media, marker material, etc. (Haines, paragraph 5).

As per claim 4, Hayward discloses confirming the order before submitting the order (column 7, line 67, through column 8, line 38).

As per claim 5, Hayward discloses processing the order for the at least one of the consumables, wherein the processing comprises retrieving information about the device that placed the order (column 8, line 60, through column 9, line 10); and supplying the at

least one of the consumables based on the processed order (column 8, lines 34-38; column 8, line 60, through column 9, line 10). Hayward does not disclose that the processing of the order comprises retrieving information about the peripheral device that placed the order, but Haines '268 teaches identifying peripheral devices to the vendor (paragraph 38). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention to retrieve such information, for the obvious advantages of shipping products to the right location, charging the right account, etc.

As per claim 6, Hayward discloses determining a distribution of at least a portion of the payment based on the retrieved information (column 8, lines 60-68).

**Claims 8-13 (Hayward as primary reference)**

Claims 8, 9, 10, 11, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268). Claims 8, 9, 10, 11, 12, and 13 are parallel to claims 1, 2, 3, 4, 5, and 6, respectively, and rejected on essentially the same grounds. Hayward repeatedly refers to an application program for causing the computer to perform its functions (column 3, lines 43-63; column 5, lines 10-34; column 7, line 49, through column 8, line 24; column 8, line 46, through column 9, line 10), a program that would presumably have to be stored on a medium, and Hayward expressly recites a computer readable medium in claims 11-15.

**Claims 15-20 (Hayward as primary reference)**

Claims 15, 16, 17, 18, 19, and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268). Claims 15, 16, 17, 18, 19, and 20 are parallel to claims 1, 2, 3, 4, 5, and 6, respectively, and rejected on essentially the same grounds.

**Claims 22-25 (Hayward as primary reference)**

Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268). As per claim 22, Hayward discloses a method for ordering at least one consumable for a device, the method comprising: submitting an order with the device for the at least one consumable for the device (column 5, lines 10-18; column 7, line 67, through column 8, line 38); processing the order for the at least one consumable, wherein the processing comprises retrieving information about the device that placed the order (column 8, line 60, through column 9, line 10); and determining a distribution of at least a portion of a payment for the order based on the retrieved information (column 8, line 60, through column 9, line 10). Hayward does not clearly disclose that the order is submitted with the peripheral device (although one might make the interpretation that the phrase “with the peripheral device” is sufficiently broad that Haines ‘998’s involvement of the peripheral device in the system meets the claim limitations), but Haines ‘268 teaches the peripheral device submitting the order (Abstract; paragraph 8; claim 1), and teaches configuring the peripheral device and

coordination of orders over a group of peripherals or over time (paragraphs 54 and 55). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the peripheral device to submit the order, for the stated advantage of coordinating supply orders for multiple peripheral devices (Haines '268, paragraphs 6 and 7).

Hayward does not disclose that the processing comprises retrieving information about the device, nor determining a distribution of at least a portion of a payment for the order based on the retrieved information, but Haines '268 teaches identifying peripheral devices to the vendor (paragraph 38). Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce at the time of applicant's invention for the processing to comprise retrieving information about the peripheral device that placed the order for the obvious advantages of shipping products to the right location, charging the right account, etc.

As per claim 23, Hayward discloses indicating a status of the at least one consumable, wherein the submitting is based on the indicating (Figures 3 and 4; column 5, line 10, through column 6, line 4; column 7, line 67, through column 8, line 38).

As per claim 24, Hayward can be read as supplying the at least one consumable based on the processed order (column 8, lines 34-38; column 8, line 60, through column 9, line 10). Even if, ad arguendo, Hayward is not sufficiently explicit about supplying the consumable, this is held to be obvious, because if one received and processed an order, and, in one embodiment, sent a shipping order and received a commission, but

did not supply the consumable, one would be committing fraud, which is not a good long-term business strategy.

Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hayward et al. (U.S. Patent 6,629,134) and Haines et al. (U.S. Patent Application Publication 2003/0074268) as applied to claim 22 above, and further in view of official notice. Hayward does not disclose that the retrieved information identifies a retailer that sold the peripheral device, but official notice is taken that it is well known to maintain and retrieve records of which dealer sold a device. Hence, it would have been obvious to one of ordinary skill in the art of electronic commerce for the retrieved information to identify a retailer that sold the peripheral device, for such advantages as determining what advertising had been effective, who was responsible for repairing or replacing a device under warranty, etc.

**Claims 27-30 (Hayward as primary reference)**

Claims 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al. (U.S. Patent Application Publication 2003/0074268); claim 30 is rejected further in view of official notice. Claims 27-30 are parallel to claims 22-25, respectively, and rejected on essentially the same grounds.

**Claims 32-35 (Hayward as primary reference)**

Claims 32-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Haines et al. (U.S. Patent Application Publication 2002/0072998) in view of Haines et al.

(U.S. Patent Application Publication 2003/0074268); claim 35 is rejected further in view of official notice. Claims 32-35 are parallel to claims 22-25, respectively, and rejected on essentially the same grounds.

***Allowable Subject Matter***

Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 21 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 26 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 31 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 36 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art of record, Hayward et al. (U.S. Patent 6,629,134), discloses a method for ordering at least one consumable for a device, as set forth above in the rejection of claim 1 (and claims 8, 15, 22, 27, 32), and in particular discloses (as per claim 6, etc.) determining a distribution of at least a portion of the payment based on the retrieved information (column 8, lines 60-68). However, Hayward does not disclose that the retrieved information identifies a retailer that sold the device, and neither Hayward, Haines et al. (U.S. Patent Application Publication 2002/0072998), nor any other prior art of record discloses that determining the distribution allocates the at least a portion of the payment to the identified retailer. (This statement is made with particular reference to claim 7, but the other potentially allowable claims are allowable on essentially the same grounds.)

### ***Response to Arguments***

Applicant's arguments filed December 12, 2005, have been fully considered but they are not persuasive.

Applicant's arguments with respect to claims 1-6, 8-13, 15-20, 22-25, 27-30, and 32-35 have been considered but are moot in view of the new ground(s) of rejection.

Applicants argue that, even accepting for the sake of argument that it is well known to maintain and retrieve records of which dealer sold a device, that does not make the particulars of claims 25, 30, and 35 obvious.

Examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Examiner not only took official notice if the fact, but supplied several motivations for storing and retrieving such records, based on knowledge generally available to one of ordinary skill in the art.

The common knowledge or well-known in the art statements in the previous office action are taken to be admitted prior art, because Applicant did not traverse Examiner's taking of official notice.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Sekizawa (U.S. Patent 6,430,711) discloses a system and method and for monitoring the state of a plurality of machines connected via a computer network. Haines et al. (U.S. Patent 6,529,692) disclose a consumable order-assistance system for a computer peripheral device within a single connection environment and method for replenishing consumables. Whaley (U.S. Patent 6,556,890) discloses a

method and apparatus for acquiring replacement products for a printing device or accessory. Haines et al. (U.S. Patent 6,937,999) disclose reorder-assistance functionality levels. Suyehira (U.S. Patent 6,947,161) discloses systems and methods for automatic status tracking of automatically ordered replacement components for printing devices. Shimbori et al. (U.S. Patent 6,99,190) discloses a printing cost charging system.

Kargman (U.S. Patent Application Publication discloses a rapid entry system for the placement of orders via the Internet (including orders for toner executed in response to a laser printer determining that levels are low; see paragraph 42). Ishizuka (U.S. Patent Application Publication 2005/0240518) discloses a method and system for on-line communication based on an off-line transaction.

The anonymous article, "HP Threatens Java Hope," discloses the idea of a laser printer monitoring its own toner levels, and ordering a new supply. Orr ("Java Being Diluted by too Many Flavours") discloses the idea of a printer monitoring its own ink level, and automatically ordering more. Fox ("We Know What You're Printing") discloses a printer sending an e-mail to request a new toner cartridge.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 571-272-6762. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 571-272-7159. The fax phone number

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for the organization where this application or proceeding is assigned is 571-273-8300.

Non-official/draft communications can be faxed to the examiner at 571-273-6762.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Nicholas D. Rosen*  
NICHOLAS D. ROSEN  
PRIMARY EXAMINER

March 7, 2006